

REMARKS/ARGUMENTS:

Claims 10-18 and 22-30 are canceled without prejudice. Claims 1 and 2 are amended. Claims 1-9 and 19-21 are pending in the application. Reexamination and reconsideration of the application, as amended, are respectfully requested.

The present invention relates to a method for treatment of tissue, for example, collagenous tissue, where a deleterious mechanical loading environment contributes to the degradation of the tissue. In one embodiment, the present invention relates to a method for treatment of degenerated intervertebral discs to improve fatigue resistance, and to non-toxic crosslinking reagents that are effective fatigue inhibitors. In a second embodiment, the present invention relates to methods and devices for the treatment of intervertebral disc and surrounding tissues to resist the ongoing deforming forces and curve progression in scoliosis. In a third embodiment, the present invention relates to methods and devices for improving the environment for biological activity in the central region of the disc by increasing the permeability or more specifically, the diffusivity of the outer region of the disc. (Applicant's specification, at p. 1, lines 10-22).

CLAIM OBJECTIONS:

Claims 1-9 and 19-21 are objected to because the claims are drawn to methods of treating "invertebrate discs," and the Office suggests that Applicant intended to claim a method of stabilizing "intervertebral" discs. Applicant believes "intervertebral" is a typographical error and the Office intended to state "intervertebral" instead. Therefore, Applicant will proceed as though the Office stated "intervertebral."

Applicant respectfully traverses this objection with respect to claims 19-21 because these claims are already directed to "intervertebral" discs. In response to

the objection of claims 1-9, Applicant amended the claims in the manner suggested by the Office. Withdrawal of this objection is thus respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102:

Claims 10, 11, 15, and 22-24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kondo et al. (U.S. Patent No. 5,607,965). This rejection is moot due to the cancellation of these claims.

Claims 10, 11, 15, and 22-24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Chang (U.S. Patent No. 5,929,038). This rejection is moot due to the cancellation of these claims.

Claims 10, 11, 13, 15, and 22-24 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Murad (U.S. Patent No. 5,804,168). This rejection is moot due to the cancellation of these claims.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103:

Claims 12, 14, 17, 18, 25, and 27-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kondo. This rejection is moot due to the cancellation of these claims.

Claims 12, 14, 17, 18, 25, and 27-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chang. This rejection is moot due to the cancellation of these claims.

Claims 16-18 and 26-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Murad as applied to claims 10, 11, 13, 15, and 22-24 above, and further in view of Ng et al. (U.S. Patent No. 5,336,505). This rejection is moot due to the cancellation of these claims.

DOUBLE PATENTING REJECTIONS:

Claims 1-30 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 5-10, 14-16, 18-21, 25-27, and 29-35 of copending Application No. 11/346,464. This rejection is moot with respect to claims 10-18 and 22-30 due to the cancellation of these claims. In response to the rejection of claims 1-9 and 19-21, Applicant files concurrently herewith a terminal disclaimer in compliance with 37 CFR 1.321(c). Withdrawal of this rejection is thus respectfully requested. Furthermore, as the objections against claims 1-9 and 19-21 have been addressed and there are no other outstanding rejections against claims 1-9 and 19-21, allowance of claim 1-9 and 19-21 is respectfully requested.

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (310) 785-4600 to discuss the steps necessary for placing the application in condition for allowance.

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If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-1314.

Respectfully submitted,

HOGAN & HARTSON L.L.P.

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